

08CN6024-2
(GP2-0185)

REMARKS

Support for Claim Amendments

The amendments have been made to place the application in condition for allowance or in better form for appeal. No new matter has been introduced by these amendments.

Claims 1 and 35-42 have been amended to delete "a polyolefin" and to substitute in its place "a propylene polymer; wherein the propylene polymer is a homopolymer of polypropylene, or a random, graft, or block copolymer of propylene and at least one olefin selected from ethylene and C₄-C₁₀ alpha-olefins, with the proviso that the copolymer comprises at least about 80 weight percent of repeating units derived from propylene." Support for this amendment may be found in Claim 11 as filed. Claims 1, 35-38 and 42 have been further amended to recite that "the composition comprises about 10 to about 70 weight percent of the propylene polymer." Support for this amendment may be found in Claim 13 as filed.

Claim 10 has been amended to recite that the propylene polymer is a homopolypropylene. Support for this amendment may be found in Claim 12 as filed.

Claims 11 and 26 have been amended for consistency with Claim 1. The amendments are supported by the respective claims as filed.

Claim 12 has been amended to recite that the "propylene polymer is an isotactic homopolypropylene." Support for this amendment may be found in paragraph [0028] of the application as filed.

Claim 13 has been amended to recite that "the propylene polymer has a melt flow index of about 0.1 to about 50 g/10 min, measured according to ASTM D1238 at 2.16 kilograms and 200°C." Support for this amendment may be found in paragraph [0027] of the application as filed.

08CN6024-2
(GP2-0185)

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-14, 16-21, and 26-46 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,509,412 to Hall (hereinafter "Hall"). Applicants respectfully traverse this rejection.

Applicants' Claims 1-14, 16-21, and 26-46 are patentable over Hall because Hall does not teach all the elements of these claims.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A 1970).

Hall generally describes a soft gel composition that includes a hydrogenated block copolymer, a polyphenylene ether, substantially amorphous polyolefin or hydrogenated polydiene, and a compatibilizer blended in respective proportions sufficient to provide the composition with a Shore A hardness of no more than about 30 and a service temperature of up to about 150° C. Hall abstract. Hall's sole working example includes 5.54 weight percent of "isotactic polypropylene filler." Hall, col. 8, lines 25-55.

Applicants' rejected independent Claims 1 and 35-42 have been amended to recite a specific polyolefin. Thus, the component previously described as "a polyolefin" has been limited to "a propylene polymer . . . [that] . . . is a homopolymer of polypropylene, or a random, graft, or block copolymer of propylene and at least one olefin selected from ethylene and C₄-C₁₀ alpha-olefins, with the proviso that the copolymer comprises at least about 80 weight percent of repeating units derived from propylene." Independent Claims 1, 35-38 and 42 have also been amended to recite that "the composition comprises about 10 to about 70 weight percent of the propylene polymer."

None of Hall's generally described components meets the compositional limitations of Applicants' propylene polymer. The only specific material in Hall that meets the compositional limitations of Applicants' propylene polymer is the "isotactic

08CN6024-2
(GP2-0185)

polypropylene filler" used in the Example, where it is present at 5.54 weight percent, based on the total weight of the composition. Therefore, Hall does not teach or suggest the use of a propylene polymer at about 10 to about 70 weight percent. Accordingly, the Office has not established a prima facie case for the obviousness of rejected independent Claims 1 and 35-42 based on Hall. Given that Claims 2-14, 16-21, 26-34, and 43-46 each depend ultimately from and further limit one of independent Claims 1 or 35-42, Claims 1-14, 16-21, and 26-46 are patentable over Hall.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862 maintained by Assignee.

Respectfully submitted,

CANTOR COLBURN LLP
Applicants' Attorneys

By: J. Michael Buchanan
J. Michael Buchanan
Registration No. 44,571

Date: February 27, 2004
Customer No.: 23413
Telephone: (860) 286-2929